

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7832 OF 2006

M/s.Om Construction and ors. ..Petitioners

V/s.

Madhav Waman Dhamdhere and ors ..Respondents

Mr.Abhaykumar Apte, advocate for petitioners

Mr.D.M.Gupte, advocate for respondents

Coram : S.J.Vazifdar, J.

Date : 9th January, 2007

P.C.

1. By consent Writ Petition is taken up for admission. Mr.D.M.Gupte states that he appears for all the respondents. This petition has been filed for challenging the order granting conditional leave to defend on the petitioner depositing a sum of Rs.8,58,863/- .

2. Admittedly, there was a delay in payment of the amount. The post dated cheques referred to in

the agreement were requested by the defendants not to be deposited. This communication was by the defendants' letter dated 4th September, 2002. Clause (2) permitted the plaintiff at their discretion to accept belated payment together with interest. The claim in suit prima facie is maintainable. The order of conditional deposit requires no interference. In the circumstances, Writ Petition is disposed of. Time to deposit the amount is extended by four weeks from today.